ANNEXATION OF THE HAWAIIAN ISLANDS.

"America is a fortunate country; she grows by the follies of European nations."—*Napoleon Bonaparte.*

SPEECH

OF

HON. JOHN W. GAINES,

OF TENNESSEE,

IN THE

HOUSE OF REPRESENTATIVES,

Wednesday, June 15, 1898.

WASHINGTON.
1898.

SPEECH

OF

HON. JOHN W. GAINES.

The House having under consideration the joint resolution (H. Res. 259) to provide for annexing the Hawaiian Islands to the United States—

Mr. GAINES said:

Mr. SPEAKER: It is admitted by the champions of annexation that if we acquire the Hawaiian Islands we must not only increase our Navy to protect us as we now are, but that we must further increase it to defend these islands.

Of course, if our Navy is not already equal to the increasing needs of the Government, it must be made and kept so.

What does an increased Navy mean? Does it mean reduced or increased taxation? If taxes must be increased, why should we cut off by annexation the sources of taxation? If we begin now the policy of colonization, will we not, as it were, climb out upon the end of the tariff limb and saw it off behind us? Will we not shut off, by annexing, the very sources of revenue that we now have with which to pay for an increased Navy to protect our existing States and Territories?

Ah, but you say, "We will not increase the tariff." What, then, will you do? You will not pass an income tax. You say an income tax is held to be unconstitutional. You say we can not raise these increased taxes by an income tax. But you fail to even propose an amendment to the Constitution, and we can not retry the question until an income-tax law is reenacted.

What must follow? Does it not mean that we must issue more bonds? What do more bonds mean? More taxation and an increased demand for gold, which will increase the fall in prices and further intensify the distress and penury of our people.

Mr. Speaker, if we are to have more taxation, where is the property to be found to tax? You have taxed everything in sight that the wealth of the country would allow you to tax to carry on this war.

Again, Mr. Speaker, I receive in my mail every day communications and marked editorials saying that "we want and must take and hold everything in sight."

Were we not to be satisfied with simply freeing Cuba and aiding the Cubans in establishing a stable form of government? Have we not so solemnly declared? We are not to be satisfied with this, but we must annex Hawaii, and go still further—take, hold, and govern the Philippines, Puerto Rico, the Ladrones, and the Carolines! And while we stud the seas with our new possessions, we must also people the ocean with grim-visaged war dogs to protect them, and thus enter the arena where force and gunpowder are the controlling arguments and where war and aggression and entangling vexations constitute the normal condition.

Mr. Speaker, if this policy of greed and colonization is to be inaugurated at this late day, then we must reverse the fixed

policy of this country for over an hundred years, while our Navy must be so increased that it will belt the world!

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENRY of Mississippi. I move that the gentleman have five minutes longer.

The SPEAKER pro tempore. The Chair has no control of the time. Under the rule the speaker can extend his remarks.

Mr. GAINES. Then I will not take up more of the time of the House if I may be allowed to have read the excerpts which I send to the Clerk's desk.

Mr. DINSMORE. I yield that time to the gentleman.

Mr. GAINES. I hope the House will give this an attentive hearing.

The Clerk read as follows:

WASHINGTON'S FAREWELL ADDRESS, SEPTEMBER 17, 1796.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be *constantly* [italics his] awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. * * *

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little *political* connection as possible. So far as we have already formed engagements let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interests, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world.

ANDREW JACKSON INDORSES IT.

On March 4, 1837, Andrew Jackson, in his farewell address, in alluding to "Washington's Farewell Address," said:

The lessons contained in this invaluable legacy of Washington to his countrymen should be cherished in the heart of every citizen to the latest generation; and perhaps at no period of time could they be more usefully remembered than at the present moment; for when we look upon the scenes that are passing around us and dwell upon the pages of his parting address, his paternal counsels would seem to be not merely the offspring and wisdom and foresight, but the voice of prophecy, foretelling events and warning us of the evil to come. Forty years have passed since this imperishable document was given to his countrymen.

THOMAS JEFFERSON ENUNCIATES THE DOCTRINE.

In his first inaugural address, March 4, 1801, Jefferson said:

Let us then with courage and confidence pursue our own Federal and Republican principles, our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one-quarter of the globe; two high-minded to endure the degradations of the others; possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisition of our own industry, to honor and confidence from our fellow-citizens, resulting not from birth but from our actions and their sense of them; enlightened by a benign religion, professed, indeed, and practiced in various forms, yet all of

them inculcating honesty, truth, temperance, gratitude, and the love of man; acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here and his greater happiness hereafter—with all these blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow-citizens—a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

THE MONROE DOCTRINE.

President Monroe, in his seventh annual message, December 2, 1823, said:

We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principle, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States.

Mr. Speaker, the annexation of the Hawaiian Islands means the abandonment of the Monroe doctrine. We notified the powers of the earth many years ago that they must keep their hands off this side of the earth and we accompanied that notice with the declaration that we would keep our hands off their side. The implied compact is universally accepted and recognized, and the consequence has been the gradual emancipation of Central and South America and the increasing expansion of liberty and free government.

We have leavened the earth with the love of liberty, and now we are to turn our backs upon our own policy. To forsake and abandon the great saving policy enunciated by Mr. Monroe we lay our hands upon their lands, and we can not complain when foreign powers begin their conquests on our own hemisphere.

The Monroe doctrine, that has protected us and kept these islands as they are for years, is about to be broken down. That doctrine has left these islands to their own ways and to make their own laws and customs. Have we suffered by it?

By that doctrine we say to the whole world, and the whole world so understands it, that we have all the territory that we want; but we do not intend that any great nation shall come and establish itself at our gateway, and in so doing destroy these weak nations that are working out their own salvation without being our enemies in fact or in spirit; and if they were, would be incapable of doing us any injury.

The Monroe doctrine is now the common law of nations. They all so understand it. They have legislated up to this dead line in the ocean and stopped. They live up to it and they dare not break over.

Having forced them to respect it, shall we now break it down ourselves? Can we longer demand of them "hands off" when we begin to lay our hands upon foreign territory?

LAW OF TREATY.

Mr. Speaker, it is proposed to acquire these islands by a joint resolution, which can be passed by a simple majority of the two Houses, to be approved or disapproved by the President, and if the latter, the resolution can be passed, and made the law of the land, until avoided, over the veto of the President, the same as other

legislation. We have never acquired any "territory" by a joint resolution, and we have the very highest authority holding that territory can not be acquired as territory and held as such by a joint resolution. It must be, if done legally, by conquest or treaty.

As early as 1828 the Supreme Court, through Chief Justice Marshall, in 1 Peters, 540, said:

> The Constitution confers absolutely on the Government of the United States the powers of making war and of making treaties; consequently that Government possesses the power of acquiring territory either by conquest or by treaty.

This court was then composed of Judges Marshall, Washington, Johnson, Duval, Story, Thompson, and Trimble. This decision has been repeatedly reaffirmed and never doubted.

What is a treaty?

Black defines a treaty thus:

> In international law an agreement between two or more independent states—an agreement, league, or contract between two or more nations or sovereigns formally signed by commissioners properly authorized and solemnly ratified, etc.

It will be thus seen by the very definition of the word treaty that it pertains and is confined, to negotiations with foreign powers, whether those powers are located on this or any other continent.

It is known as an Executive power; that is, one to be exercised by the President, and are the very words of the Constitution, "by and with the advice and consent of the Senate." We know by common experience and observation that legislation as contradistinguished from treaty making is enacted by the Senate, House—"the Congress"—with the approval of the President or over his veto is ex parte and confined to the limits of the United States and their territory.

Chancellor Kent well says:

> The power to make treaties of peace must be coextensive with the exigencies of the nation, and necessarily involves in it that portion of the national sovereignty which has the exclusive direction of diplomatic negotiations and contracts with foreign powers.
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> The department of the Government that is intrusted by the Constitution with the treaty-making power is competent to bind the national faith in its discretion, for the power to make treaties of peace must be coextensive with the exigencies of the nation, and necessarily involves in it that portion of the national sovereignty which has the exclusive direction of diplomatic negotiations and contracts with foreign powers. All treaties made by that power become of absolute efficacy because they are the supreme law of the land. There can be no doubt that the power competent to bind the nation by treaty may alienate the public domain and property by treaty. * * * The power that is intrusted generally and largely with authority to make valid treaties of peace can, of course, bind the nation by alienation of part of its territory. (1 Kent, thirteenth edition, page 166.)

In Holden *vs.* Joy, in 17 Wallace, 211, Judge Clifford, in speaking for the court, said:

> Express power is given to the President, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur, and inasmuch as the power is given in general terms, without any description of the objects intended to be embraced within its scope, it must be assumed that the framers of the Constitution intended that it should extend to all those objects which in the intercourse of nations had usually been regarded as the proper subjects of negotiation and treaty, if not inconsistent with the nature of our Government and the relation between the States and the United States.

The Constitution ordains, Article II, section 2, that—

> He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

Note the language. "Make"—that is, create—treaties. Who? The President and Senate make the treaty, while the Congress—that is, the Senate and House of Representatives—and the President, or possibly the Senate and House over the veto of the President, may enforce or abrogate the treaty.

It is significant that the treaty-making power is confined to the President and the Senate, while this resolution, as stated, may pass the House and the Senate by a simple majority, or over the veto of the President by the usual vote, and yet takes the place of a treaty and strips the President and Senate of their executive functions, and by a majority vote! The Constitution nowhere says that the President and Congress shall make treaties, or that the President and the House shall make treaties, or that the Senate and House combined may do so. It is specific and easily understood and says the President and Senate shall.

It is a fact that the treaties heretofore proposed to annex Hawaii have failed to meet the approval of the Senate—in fact, have not received the necessary two-thirds vote. Is this the reason why the annexationists seek now to acquire these islands by a joint resolution, which requires, as stated, a simple majority vote?

A recent author sums up the law of treaty, in these words:

> Congress has the power to abrogate its treaties. The treaty-making power is vested in the President and the Senate, and with the consent of the other contracting parties it is competent for the President and Senate to annul the existing treaty; but the power to abrogate a treaty is vested in Congress.—*Boutwell on the Constitution of the United States for the First Century*, page 294.

The authorities on the subject are ably reviewed in Chan Ping *vs.* The United States (130 U. S., 600). Justice Bradley, in discussing the abrogation of our treaty with China, by which Chinese immigration from China was prohibited, says:

> The Constitution of the United States speaks with no uncertain sound upon this subject. That instrument, established by the people of the United States as the fundamental law of the land, has conferred upon the President the Executive; has made him commander in chief of the Army and Navy; has authorized him, by and with consent of the Senate, to make treaties, and to appoint ambassadors, public ministers, and consuls. As was said by this court in Chae Chan Ping's case (130 U. S., 600), following previous decisions:
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> The treaties were no greater legal obligations than the act of Congress. By the Constitution, laws made in pursuance thereof and treaties made under authority of the United States are both declared to be the supreme law of the land, and paramount authority is not given to one over the other. A treaty, it is true, is in the nature of a contract between nations, and is often merely promissory in its character, requiring legislation to carry it into effect. Such legislation will be open to future repeal or amendment. If the treaty operates by its own force, and relates to a subject within the power of Congress, it can be deemed in that particular only the equivalent to a legislative act, to be repealed or modified at the pleasure of Congress. In either case the last expression of the sovereign must control. (149 U. S., 711, 712. Fong Yue Ting.)

If the President and Senate make a treaty that is not self-operative, Congress can enact enabling legislation.

We have made no treaty with Hawaii, and that offered has been defeated by a failure of the Senate to sanction it. This measure is not a treaty. We have seen this House has no power to "make" a treaty.

It is not proposed to acquire these islands by treaty or conquest. It is not contended that we have conquered these Hawaiians. It is not held that this is a treaty, but simply a joint resolution for the purpose of annexing these islands. Not having conquered these people, we can not take or hold this territory as conquerors. To conquer we must dispossess, and take not only

physical possession of the individuals conquered, but their possessions, personal and real.

Hence it is that by conquest the people who conquer, being then sovereigns, at least for the time being, acquire the possessions of the conquered, and in this way, even if we had no Constitution, but simply exercised our natural rights as human beings, we could thus acquire property of and from the vanquished. We say, in brief, that we, as a nation, acquire territory as a result of war—as an incident of war, some contend, but it would seem as a direct result and one of the means of conquering.

But that is not this case. We are not undertaking to acquire these islands by conquest, but in a time of profound peace with this nation. We are therefore, and the annexationists should be, confined to the limitations of our written Constitution. We are therefore bound, under our oaths, to support this Constitution and to acquire these islands, if at all, according to the fundamental law of the land—by conquest or treaty.

In 1870 certain jobbers or land sharks undertook to annex the Santo Domingo Islands by a joint resolution, but met with such serious opposition in and out of Congress that finally it was abandoned. It was bitterly opposed, because such a means of acquisition was unwarranted by the Constitution, by Senators Thurman, Sherman, Bayard, Stockton, Davis of Kentucky, Sumner, and by Representatives Cox of New York and HOAR of Massachusetts (now a distinguished Senator, who now favors the annexation of the Hawaiian Islands), and many others.

Senator Thurman was for many years a most distinguished chief justice of the supreme court of the State of Ohio. He was equally illustrious as a statesman and a jurist while he adorned the Senate, and his great learning cast more light upon constitutional and abstruse matters, as shown by the debates in the Senate, than any other member of that august body. In discussing the unconstitutionality of the annexation of the Santo Domingo Islands by a joint resolution, he said:

> I believe, not only with all the fathers of the Constitution but with the expounders of it of all parties, a doctrine affirmed as strongly by Daniel Webster as it was by John C. Calhoun, that the Government of the United States has no powers except such as are delegated to it by the Constitution, and that the absence of a delegation is just as fatal to a power as would be its express prohibition, and that nowhere in the Constitution is the power granted to the General Government to acquire territory in any other way than by treaty and by conquest, of course, which would follow war. You may acquire by conquest as an incident to the war-making power; but in time of peace, when there is no war, there is no other power contained in the Constitution conferred upon the Government under which it can lawfully acquire territory except the treaty-making power.

Senator Bayard, in speaking on the same point, said:

> My honorable friend from Ohio [Mr. Thurman] ably demonstrated to the Senate the utterly unconstitutional nature of this proposition, that Congress have no power by joint resolution to annex territory to the United States; and that even with the doubtful example of the State of Texas before us, it must be recollected that in that case we are dealing with a "State," and a State, in the precise language of the Constitution, we are authorized to admit by vote of Congress.
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> But who pretends, or who can pretend, that this island, peopled with a semibarbarous population, this chaotic mass of crime and degradation, can be dignified into a "State," or that from among such a people proper or decent selections can be made to take part in the government of this great country? No, sir; Congress has no authority, no lawful power, to annex foreign territory by joint resolution. By treaty stipulation alone can we become possessed of territory, an unorganized political society.—*Congressional Globe*, volume 82, page 226.

Senator Sherman said:

You can not by joint resolution annex San Domingo as a territory; you must annex her as a State if you annex her by joint resolution. There is no clause in the Constitution that provides for the acquisition of territory by joint resolution, unless it be that Congress may admit new States. * * * No one has ever pretended that we could, by joint resolution, annex territory as a Territory without admitting it as a State.—*Congressional Globe*, third session Forty-first Congress, pages 183, 193.

President Grant in 1871 abandoned the plan of annexing Santo Domingo by treaty and recommended its annexation by joint resolution, and that fell through.

Senator Davis severely criticised the President and these measures in the following language:

He [the President] had not the hardihood, the audacity, to submit to the Congress of the United States that they should receive Dominica as a State into the Union. He would not so insult the understanding and the dignity of Congress, the understanding and the rights of the American people, as to make any such monstrous proposition. Still there is a general vague and covert proposition that Dominica shall be received into the Union by joint resolution of Congress, and as he in effect repudiates and does not give any countenance to the idea of its admission by joint resolution as a State into the Union, what is the effect and purpose of the President's elaborate consideration and dissertation upon the subject in his message?

Simply that Congress shall advance beyond the principle and the provision of the Constitution, beyond all the precedents, and admit Dominica, not as a State into the Union, but as a Territory, whose inhabitants are incompetent to take upon themselves the duties and responsibilities of citizens of the United States in the business of self-government in adopting a constitution and acting the part of a State in the Union.

That is the purpose of the President; that is his recommendation; that is his proposition. It is in furtherance of that proposition, as I understand, that this joint resolution has been introduced. It is simply to take up this furtive, unconstitutional project of the President, to be effected without authority of the Constitution, and perverting and usurping its powers by Congress assuming the prerogative of the treaty-making power in admitting into the Union as a Territory territory that now forms part of a foreign country. It is to forward and give impetus, strength, and power to this covert and monstrous proposition that this resolution is introduced.

Mr. Wood, of New York, in the House, on the same subject, said:

Therefore I concur in these views and contend that if Dominica is to be annexed to the United States as a Territory it must be by a treaty made with the Dominican Government, which is a foreign power. It is impossible, constitutionally, to bring Dominica into the Union as a Territory by joint resolution, as is proposed. I have other authorities upon this subject. I have the opinion of some of the ablest expounders of constitutional law now living directly to that point, but I have not time nor will I detain the House to refer to them.

I say, therefore, again, if Dominica is to be acquired at all, except by treaty, she must come in as a State, with all the rights and privileges of other States. To this there are grave objections, to which I will refer hereafter.

The contention was, then, that if foreign territory could be acquired at all, it must be done by the treaty-making power—the President and Senate—and that Congress could not by legislation do so. That while "new States" might be admitted into the Union by the House of Representatives and Senate, even over the veto of the President, yet they were without power to annex territory as territory by simple legislation.

Let us see just how we have procured our various acquisitions since the formation of our Constitution:

1. Louisiana was annexed in 1803 by purchase, consummated in advance, and ratified by treaty.

2. Florida, in 1819, by treaty. Texas was never annexed, but was admitted into the Union as a State in 1845.

3. New Mexico and California were acquired by conquest and treaty.

4. The Gadsden purchase by treaty in 1853.

5. Alaska was acquired by treaty in 1867.

The annexationists cite in support of this unprecedented measure the admission of Texas into the Union by joint resolution as authority for annexing this territory as territory, to be held as territory, by a joint resolution. The two cases are not parallel.

She was admitted under that explicit provision of the Constitution which ordains that

"New States may be admitted by Congress into this Union," not "annexed," but "admitted" by the Congress into "this Union."

First. Texas was a free and independent State before we admitted her. The United States, as early as 1837, recognized her independence as a free State; England, Belgium, and France soon thereafter.

Second. She had her own State government—President, Sam Houston, of Tennessee—and her Congress.

Third. She made her own laws, and was peopled principally by emigrants from the United States.

Fourth. She was admitted not as, or to be, a "Territory," but immediately as, and because she was already, a "State."

Fifth. The treaty-making power can not admit a State as a State; Congress can.

Sixth. Texas was formerly a part of the United States and until 1819, when by treaty we ceded her to Spain.

Seventh. Texas is contiguous territory.

Senator Thurman, in discussing the Santo Domingo resolution gave the reasons why Texas was admitted as a State by a joint resolution. He said:

> Now, the first thing that strikes me is this: Is the Senate ready to recede from its position? Is the Senate ready to ratify a treaty for the annexation of Dominica, or is the Senate ready to annex Dominica by joint resolution? And in that connection I beg leave to call the attention of the Senate to the fact that you can not by joint resolution annex Dominica as a Territory; you must annex her as a State if you annex her by joint resolution. There is no clause in the Constitution of the United States that provides for the acquisition of territory by joint resolution of Congress, unless it be one single provision, and that is that the Congress may admit new States into the Union.
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> And it was upon the argument that there was no limitation upon that power to admit new States into the Union that it was not limited to territory belonging to the United States, but that territory belonging to a foreign power might be admitted into the Union as a State. It was upon that doctrine that the resolution in the case of Texas was passed. But no one has ever pretended that you could by joint resolution annex territory as a Territory without admitting it as a State.

It will be interesting here to briefly give the history of Texas up to her admission as a State of this Union:

> Previous to 1819 the United States had claimed as part of the Louisiana purchase the region known as Texas as far as the Rio Grande River, but by the Spanish treaty of that year yielded its claim. Soon afterwards inhabitants of the United States began to remove to Texas, where they obtained grants of land and settled. It thus grew into a State which was closely allied to the United States.
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> In 1827 and 1829 Clay and Calhoun, as Secretaries of State, tried to obtain, but without success, Texas by purchase, offering $1,000,000 and $5,000,000. In March, 1836, Texas, dissatisfied with the Government of Mexico, declared its independence. A short war followed. The Mexicans committed massacres at Goliad and the Alamo, but on April 10, at the San Jacinto, Santo Anna, the Mexican President, with 5,000 men, was badly defeated by 700 men under Gen. Sam Houston, the commander of the Texan forces.
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> Santa Anna agreed to a treaty which recognized the independence of Texas. This was not ratified by Mexico, but in March, 1837, the United States recognized the independence of the Republic of Texas, and soon England, France, and Belgium did likewise. In 1837 Texas made application to Congress for annexation, but with no immediate result. The Presidential campaign of 1844 turned largely on this question. The Democratic convention

nominated Polk, who favored annexation, instead of Van Buren, who opposed it. Clay, the Whig candidate, was also supposed to be against the project. In the meantime Calhoun, Secretary of State, had negotiated a treaty of annexation with Texas in April, 1844, including the territory between Nueces and Rio Grande rivers, disputes as to which finally led to the Mexican war.

This treaty failed of ratification at the hands of the Senate. Polk was elected, but his election was taken as a sign of popular approval of annexation, and Congress and Tyler's Administration now became attached to the project. Early in 1845 Congress authorized the President to negotiate a treaty of annexation. Tyler hastened to accomplish the object, though without a treaty, and on the last day of his term sent a special messenger to Texas. This emissary on June 18 secured the consent of the congress of Texas, which was ratified by popular vote on July 4. A resolution for the admission of Texas as a State was passed in the House of Representatives by a vote of 141 to 56 on December 16, 1845, and in the Senate by a vote of 31 to 13 on December 22, and Texas was declared a State of the Union December 29, 1845.

Mr. Johnson, of Tennessee, afterwards President, in the House, 1845, said:

The admission of a sovereign State into the Union is not an acquisition of territory in the sense that territory is or can be acquired under the treaty-making power. They are wholly different. * * *

Bear in mind that we are annexing these islands as territory, and not as, or to be, a "new State" of this Union.

Mr. Colquitt, of Georgia, a Senator, said:

Honorable Senators seem to blend the idea of acquiring territory and admitting States and thereby produce confusion. It is insisted that we must acquire territory by treaty. Let this be so, and it does not touch the argument. For it is absolutely certain that you can not admit a State into the Union by treaty, that power being conferred alone upon Congress.

And again said:

The argument I have just made is based upon the supposition that by admitting Texas as a State this Government acquires the territory of Texas. I have thought proper to enforce this view because it seems impossible for some minds to conceive how Texas can become a member of the Union unless this Government does thereby acquire her territory. To my mind the distinction is manifest, and that by the resolutions from the House we acquire no territory, but leave Texas as a State, possessed of her entire domain, to dispose of as she pleases, under our Constitution, fixing only the terms by which she may become a confederate. The acquisition of territory is one thing; the admission of a State is another and totally different.

Mr. Van Buren, in a letter to Mr. Hammett, said:

The Executive and Senate may, as I have already observed, by the exercise of the treaty-making power, acquire territory; but new States can only be admitted by Congress; and the sole authority over the subject, which is given to it by the Constitution, is contained in the following provision, viz: "New States may be admitted by the Congress into this Union." The only restrictions imposed upon this general power are, first, that no new States shall be formed within the jurisdiction of any other State; nor, secondly, "any State formed by the junction of two or more States or parts of States without the consent of the legislatures concerned, as well as of Congress"—restrictions which have no bearing upon the present question.

The matter therefore stands as it would do if the Constitution said, "New States may be admitted by the Congress into this Union," without addition or restriction. That these words, taken by themselves, are broad enough to authorize the admission of the Territory of Texas, can not, I think, be well doubted; nor do I perceive upon what principle we can set up limitations to a power so unqualifiedly recognized by the Constitution in the plain, simple words I have quoted, and with which no other provision of that instrument conflicts in the slightest degree.

Although Texas was already a free and independent State, formerly a part of the United States, peopled by emigrants from the United States, with perfect governmental machinery patterned after our own, with Samuel Houston (once governor of Tennessee) as President, and a Congress elected by her people; and although immediately adjoining the United States and naturally a part of this continent, Senator Choate contended that Congress could not

admit her as a State of this Union, though the Constitution expressly gives Congress the power to admit new States. He said:

It was not until it was found that the treaty of last session had no chance of passing the Senate, no human being, save one, no man, woman, or child in this Union or out of the Union, wise or foolish, drunk or sober, was ever heard to breathe one syllable about this power in the Constitution of admitting new States being applicable to the admission of foreign nations (Texas being an independent foreign nation), governments, or states. With one exception, till ten months ago, no such doctrine was ever heard of or even entertained. He insisted that the joint resolution was gotten up "not from any well-founded faith in its orthodoxy, but for the mere purpose of carrying a measure by a bare majority of Congress that could not be carried by a two-thirds majority of the Senate in accordance with the treaty-making power."—*Congressional Globe*, second session Twenty-eighth Congress, page 304.

When we have acquired territory by the treaty-making power, it has been with the distinct understanding expressly stated that such territory would be given a Territorial government until it became sufficiently inhabited to be admitted into full statehood with the old States. In this way many of our States, and particularly in the Southwest and West, have gone from Territory into full statehood. But there is no provision in this resolution to admit these islands as a State into this Union now or hereafter. On the contrary, the gentleman from Illinois [Mr. HITT], the chairman of the committee reporting this bill, when asked by my neighbor, the gentleman from Kentucky [Mr. CLARDY], this question—

Suppose these islands are received into the United States under this resolution, what does this Administration intend, or what do the people of the United States intend, to do with them? Will they be admitted as a State? It seems to me that is a very important question—

Here is his remarkable answer:

Mr. HITT. I am not a mind reader, and the Almighty alone can answer what is in men's minds. * * * The gentleman will have to find that out from other sources. * * * By the terms of this resolution all such questions will be determined by Congress.—*Congressional Record*, volume 31, page 6770.

"By Congress," you see, when we have already seen that Congress is only given the right to admit "new States." The next step, the gentleman [Mr. HITT] suggests, will be to admit as a State these islands, stricken with leprosy since 1856, with 1,400 lepers already there, and her conglomerate population—Japanese, 25,400; Chinese, 21,616 (which we have excluded from this country); Portuguese, 15,291; British, 2,250; Germans, 1,432; Hawaiians (pure and mixed), 39,504; Americans, 3,031 (who are really running the whole thing and forcing this movement), making a total of 109,000 people.

This is the mass, the refuse of all creation, that will soon be knocking at the doors of Congress for statehood, that two Senators, leprous suspects, and two Representatives, leprous suspects, may be elected and sit in Congress to make laws for this country and that unfortunate people. With such prospects, with such a future as this, we are not surprised that the distinguished gentleman from Ohio [Mr. GROSVENOR], a zealous annexationist, squirmed around the question when asked what we would do with this country when she is annexed, and said:

I scorn to discuss what is to come from this annexation.

But as the heat of debate increased the annexationists became bolder, and the noblest Roman of them all frankly stated that we would do as England does. That he preferred to take advice of her and other foreign nations than to be guided by our past

history or advised from his own people. I allude to the distinguished gentleman from Iowa [Mr. HEPBURN], who says:

> And while I listen to gentlemen who are full of forebodings, while I have great respect for their learning, yet I have more respect for the statesmanship of England, of Germany, of Russia, of France—nations that are to-day pursuing successfully and to our detriment the colonial system that gentlemen here tell us is to be ruinous to us if we follow their example. The statesmanship of the earth to-day is in favor of this system of colonization, of territorial expansion, of breadth and greatness and grandeur, of extension of empires. All the statesmanship of the world, save that of the Democratic party here in the United States, says "aye" to the proposition; they alone are halting in the procession. [Laughter.]—*Congressional Record*, volume 31, page 6662.

The sentiment here expressed is amazing when its meaning is measured by the only experience this country has had. We were once in the very relation with respect to England that is sought to be established for Hawaii. We were once a colonial dependency of England and a victim of the glorious policy the gentleman so lauds, and what was our fate? Go read the scathing array of abuses embodied in the Declaration of Independence, the long series of oppressions and wrongs set out in that withering indictment of King George, and then bow your head with shame that such audacious sentiment as that uttered by the gentleman can find expression in the American Congress. It is in keeping with that other policy of the Republican party which sees no good in home-made financial policies and must look to England for example and sit at the feet of English statesmen for the only financial wisdom. God save America from ever having such an indictment found against her, and God save this people from being dragged into a condition where such shameful thing may be possible.

The Republicans laugh, the annexationists smile, when the teachings of Washington, Jefferson, Monroe, Jackson, Webster, and the policy and principles of our Government for over one hundred years are thus smote and condemned by the mouthpiece of the Administration, whose backs, we see, are turned upon this Government, and the statesmanship of England, Germany, Russia, and France is pointed to as the beacon lights for our future as a nation. I ask, Mr. Speaker, is it not time to—

> Throw out the life line—
> There is danger ahead.

YUCATAN WAS DENIED ADMISSION.

In 1848 Yucatan knocked at the door of the Union and sought admittance. Worn out with internecine strife, its commissioners came to President Polk praying for protection from the Indians, and offered to transfer "the dominion and sovereignty of the peninsular" to this Government. Mr. Polk, in a message dated April 29, 1848, submitted the facts to Congress and said:

> In this condition they have, through their constituted authorities, implored the aid of this Government to save them from destruction, offering in case this should be granted, to transfer the "dominion and sovereignty of the peninsular" to the United States. Similar appeals for aid and protection have been made to the Spanish and English Governments. Whilst it is not my purpose to recommend the adoption of any measure with a view to the acquisition of the "dominion and sovereignty" over Yucatan, yet, according to our established policy, we could not consent to a transfer of this "dominion and sovereignty" either to Spain, Great Britain, or any other European power.

He then quoted, reaffirmed, and applied the Monroe doctrine. Here is an exact precedent, almost identically analogous, differing only in that it had the advantage over the case now being considered in not being foreign territory, but lying within this hemisphere and almost immediate vicinity, and yet Congress refrained

from accepting the transfer of the dominion, and the President specifically declined to recommend it. The Constitution afforded no such power, and no one ever dreamed that it did.

Mr. Jefferson, in a letter to W. C. Nicholas, September 7, 1803, said:

> But when I consider that the limits of the United States are precisely fixed by the treaty of 1783, that the Constitution expressly declares itself to be made for the United States, I can not help believing that the intention was not to permit Congress to admit into the Union new States which should be formed out of the territory for which, and under whose authority alone, they were acting.
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> I do not believe it was meant that they might receive England, Ireland, Holland, etc., into it, which would be the case upon your construction. When an instrument admits two constructions—the one safe, the other dangerous; the one precise, the other indefinite—I prefer that which is safe and precise. I had rather ask an enlargement of power from the nation when it is found necessary than to assume it by a construction which would make our powers boundless. Our peculiar security is in the possession of a written constitution. Let us not make it a blank paper by construction.
>
> I say the same as to the opinion of those who make the grant of the treaty-making power boundless. If it is, then we have no Constitution. If it has bounds, they can be no others than the definitions of the powers which the instrument gives. It specifies and delineates the operations permitted to the Federal Government, and gives all the powers necessary to carry those into execution. Whatever of these enumerated objects is proper for a law, Congress may make the law; whatever is proper to be executed by way of treaty, the President and Senate may enter into that treaty; whatever is to be done by a judicial sentence, the judges may pass that sentence.

We see that in addition to the prospect now of having Hawaii as a State, the process of colonization is just begun, and soon other such countries are to be annexed and later admitted as States of this Union. Are we ready for this? Was it ever intended that we should be ready? Mr. Speaker, can we ever be ready to submit to such a calamity? Not content with illegally annexing territory—the foreign territory of one people—this movement of imperialism is now inaugurated and to be perpetuated.

Mr. Jefferson, Mr. Quincy, Mr. Webster, Chief Justice Taney, and others denied the power of the United States to acquire foreign adjoining territory even by treaty and for the immediate purpose of making new States of the territory thus acquired. But here islands throughout the world are to be acquired and to be held as territory, as colonies, and that, too, not by treaty, as the Constitution, if at all, permits, but by the simple legislation of Congress.

Mr. Speaker, it is plain, by the very words of the Constitution and as expressly intended by the framers, that out of portions of the old States Congress had the right to make new States, which has been done. For example: Maine, Vermont, and New Hampshire were portions of old Massachusetts, West Virginia of Virginia, Tennesee of North Carolina, while the Western States east of the Mississippi were formed of portions of that territory ceded to the United States by the old States, acquiring it, as the people then contended and courts held, as a result of the Revolutionary war.

It was surrendered, ceded by the old States, to pay off our then war debt and to make into new States to be admitted into the Union, "the States when united." This cession settled a controversy between the States that this vacant territory was territory bought by the people by the blood they spilled in gaining our independence.

It was doubted that the United States had the right or power to acquire by treaty or otherwise than by conquest, of course, additional territory for the purpose of adding new States to the United States. But to prevent war Jefferson yielded, on the condition

that the Constitution be thereafter amended, and urged the purchase by treaty of Louisiana and other territory in that section, that our people might have free access to the Mississippi River.

Our citizens' use of that river and our right of "deposit" in that section was invaded and "withdrawn." Their commerce on that river was broken up. This our people, Mr. Jefferson said, would not stand longer. Louisiana, and the right to navigate the Mississippi River—a natural right, he contended—must be acquired or war was inevitable. Jefferson yielded, and by treaty Louisiana was acquired to relieve this situation, not by joint resolution, but by treaty, and for the further purpose of making "new States," which was done. Mr. Jefferson was not alone in believing that the right of the United States to acquire new States was limited to its original confines.

Mr. Chief Justice Taney, in the celebrated Dred Scott case, used this language:

> There is certainly no power given by the Constitution to the Federal Government to establish or maintain colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure, nor to enlarge its territorial limits in any way except by the admission of new States. That power is plainly given; and if a new State is admitted it needs no further legislation by Congress, because the Constitution itself defines the relative powers and duties of the State and citizens of the State and the Federal Government. But no power is given to acquire territory to be held and governed permanently in that character.

Mr. Webster, in a speech delivered at Buffalo, N. Y., May 22, 1851, said:

> It was inconsistent with the Constitution of the United States, or thought to be so, in Mr. Jefferson's time, to attach Louisiana to the United States. * * * My opinion remains unchanged that it was not within the original scope or design of the Constitution to admit new States out of foreign territory.

March 15, 1837, he said again:

> I say, then, gentlemen, in all frankness, that I see objections, I think insurmountable objections, to the annexation of Texas to the United States. When the Constitution was formed, it is not probable that either its framers or the people ever looked to the admission of any State into the Union except such as then already existed and such as should be formed out of territories then already belonging to the United States.

Senator MORGAN, in a letter addressed to Mr. James K. Kaulie and published in the Honolulu Independent of October 19, says:

> Nor could we in any event accept Hawaii as a dependency or colony. We have no such powers under our Constitution.

It is no answer now to this palpably correct view to say that this distinguished gentleman has changed his opinion.

Now, then, in the face of these learned opinions and our past history, the annexationists insist that we have the power, by a joint resolution, to annex this foreign territory as territory and hold it as territory, no provision whatever being made for its admission as a State now or at any other time. Judge Taney said:

> The different departments of the Government have recognized the right of the United States to acquire territory which at the time it is intended to admit as a new State into the Union.

It was doubted if Congress had the power to admit Texas, a State free and independent before her admission, when Congress had the express right to admit new States, and now by "implication" it is contended that Congress has the power to annex this territory, confessedly not a State, but a territory 2,100 miles from the borders of California.

Here is an act about to be done without a precedent in the his-

tory of our country, upon a power implied from the grant expressly given to admit new States. The rule is old and well-settled, that—

The United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication. (1 Wheaton, 326.)

This rule was enunciated by Chief Justice Marshall at an early day in our history, but it is now too old, it is claimed, to be any longer the law of this land, and is being ignored here to-day by the friends of this measure.

"What is the Constitution between friends?" Let those who have taken the solemn oath to uphold and enforce it answer. Let those who would spit upon the Constitution, upon the traditions of this country for over a hundred years, ask this question and laugh as they do it. As for me, I shall stand by the oath I have taken to support this sacred instrument. May I be false first to my own self, if false I must be to anyone, but last always to my country and to the patriotic people whose trust I hold in my hand and whom I have the honor in part to represent in this House.

But as step by step the annexationists lose their foothold they catch as a drowning man at straws and find, they think, a harbor in the boundless "welfare clause" in the Constitution, and say that the public welfare requires the annexation of these islands.

If they would say the private welfare of a handful of American sugar and coffee growers who live there and who are prowling around the precincts of this Capitol logrolling for this measure, the truth might be fully told.

Only a few days ago, in a conversation with a high public official, I was asked my views on this subject, which I gave. I found him an ardent annexationist. He said "we" need these islands as a war support." As I turned to leave him he drew from his desk some large photographs and said, "I own a coffee farm down there, and here are photographs of it," exhibiting them.

On another occasion a resident of Washington, after a long conversation on the subject of annexation, as we parted, said, "Of course I am for annexation. It will make my land there worth $50 per acre, but I don't blame you as a member of Congress for opposing annexation. I would, too, situated differently."

Doubtless this is but a bird's-eye view of similar experiences of other members with these patriots.

That we have the power to annex these islands under the general-welfare clause is an unheard-of proposition. If it be true that we have such power, then why was the treaty-making power confined exclusively to the President and the Senate? Or why did the other provision of the Constitution grant to Congress the power to admit "new States?"

Why could not all of this have been done under the general-welfare clause without these provisions? If these acquisitions can be made under that clause, why were the other clauses inserted at all, and, if inserted, why with such specific limitations? All the adjudications of the Supreme Court of the United States and the past history of this country are witnesses against the position taken here by the friends of this measure.

If this clause admits of this construction, or if it was thus intended by the framers of the Constitution, pray tell me why this wise council of men, in lieu of all other clauses, failed to declare "that the Congress shall have power to enact any legislation the public welfare requires?" This would have saved them much time

and labor and succeeding generations oceans of contentions and seas of lawsuits.

It is true as charged that the Democratic party has always led in extending the domain and the power and glory of this Government; but it is equally true that in every such movement the ways pointed out by the Constitution were rigidly followed. Gentlemen affect to deride that party and charge it with lagging in this latter-day colony-grabbing mania that has seized upon the Governments of Europe. They call that mania "statesmanship" and "wise diplomacy," and they hoot at and decry the safe and stable policies that have animated American statesmen; and that have proved efficacious in building up a Government that leads all others in the benefits it bestows upon its people and upon humanity. The Democratic party glories in its record of territorial acquisition. It glories in the fact that every foot of land we have gained came through its instrumentalities. It glories in the fact that every acquisition it has made has proven wise and good, and has served to extend the blessings of free government and lead to greater happiness and prosperity. It glories chiefly in the fact that in every instance it has tracked the way blazed out by the Constitution, and it glories now in that it is able to withstand the glittering allurements held out and stand by that sacred instrument.

The Democratic party has held to the plain letter and meaning of the Constitution and has been foremost in acquiring territory out of which States might be made. By no imaginary stretch can the power be extorted which permits the acquisition of foreign territory. It is as clear as noonday that that instrument contemplates the acquisition of such territory only as States may be made of—contiguous territory with identical interests and associations, capable of being absorbed into one homologous whole, and all the wise men who helped to build our institutions have all so held. If we are to fall now into this procession of powers marching on to the savage realms of the East and seek a part in the entanglements and strifes that will constitute its chief heritage; if we are to be allured from the old, safe, glorious landmarks by dreams of conquest and follow this new idea born in European greed, then our Constitution must either be amended or violated. As for myself, I prefer to remember my oath to uphold it.

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